

**STATE ARCHIVES AND RECORDS COMMISSION**  
**Minutes of the Quarterly Meeting**  
**June 21, 2007**  
**Department for Libraries and Archives**

The State Archives and Records Commission met at 10:00 a.m., June 21, 2007, in the Board Room, Kentucky Department for Libraries and Archives (KDLA), 300 Coffee Tree Road, Frankfort, Kentucky.

Members present: Wayne Onkst, Chairman; Sandra McAninch, representing the Kentucky Library Association; Emily Dennis, representing Citizens-at-Large; Terry L. Birdwhistell representing the University of Kentucky; Dean Johnson representing local governments and Leah Hawkins, representing Citizens-at Large.

Representatives present: Sally Hamilton representing Virginia G. Fox, Secretary, Education Cabinet; Brandon Haynes, representing Joseph E. Lambert, Chief Justice, Supreme Court; Amye Bensenhaver, representing Gregory D. Stumbo, Attorney General; Bryan Lykins, representing Crit Luallen, Auditor of Public Accounts; Charles Robb, representing Mark Rutledge, Commissioner of Technology; Leslie Smith, representing Robert Sherman, Director, Legislative Research Commission; Glenna Mays, representing Brad Cowgill, State Budget Director, Governor's Office of Policy and Management;.

Members not present or represented: None

Public Records Division staff present: Richard N. Belding, Director, Public Records Division; Jerry Carlton, Manager, Local Records Branch; Glen McAninch, Manager, Technology Analysis and Support Branch; Jim Cundy, Manager, State Records Branch; Mark Stone, Manager, Micrographics and Digital Imaging Branch; Mark Myers, Electronic Records Specialist; Pat Brookman, Records Analyst; Thomas Getman, Records Analyst; Cynthia Snapp, Administrative Specialist.

Guests present: Scott Porter, Counsel for the Commission; Tanya Stevens, Department of Corrections; Emily Butler, Commission on Human Rights; Morgan Ransdell, Commission on Human Rights; John Klein, Cabinet for Health and Family Services; Jeff Mosley, Education Cabinet; Dan Egbers, Education Cabinet; Barbara Pauley, Environmental and Public Protection Cabinet; John Jones, Office of the Attorney General; and Erin Bentley, Education Cabinet.

Onkst called for introductions by those present.

Ms. McAninch made a motion to accept the minutes of the previous Commission meeting with the name of Mark Rutledge, Commissioner of Technology, substituted for Michael Inman, seconded by Mr. Johnson. The vote by members and representatives present was unanimous.

Onkst recognized Belding, who said:

Thank you, Mr. Chairman.

The State Archives and Records Commission has been actively involved in advising the department on archives and records management issues and in reviewing state and local government records retention schedules since its creation in 1958. Over that time, department staff has relied for direction on the language in KRS 171.420, which spells out the Commission's responsibilities, including that

- It shall advise this department on matters relating to archives and records management;
- It shall have the authority to review and approve schedules for the retention and destruction of records submitted by state and local agencies; that
- In all cases, the commission shall determine questions which relate to destruction of public records, and that their decision shall be binding on the parties concerned and final, except that the commission may reconsider or modify its actions upon the agreement of a simple majority of the membership present and voting.

Recently, we were advised that the requirements of KRS 171.450, ***Department rules and regulations***, and chapter KRS 13A.100, which describe matters which are prescribed by Administrative Regulation, apply to the department's and the Commission's role in the records retention scheduling process and to the schedules themselves, which are the product of that process. We had relied on existing practice and advice and continued a previous approach, but I would like to thank our Cabinet counsel, Jeff Mosley, for bringing the issue to our attention so that we can place the department and commission in full compliance with those statutes.

As a result, we will be moving directly to submit one or more Administrative Regulations to the Administrative Regulations Review subcommittee at the Legislative Research Commission to comply with this requirement. Those ARs will incorporate by reference procedural information about the scheduling process itself, as well as the full text of all existing schedules for both state and local agencies, including both agency-specific schedules as well as general schedules. We are still discussing internally and with our Cabinet what the best way will be to organize those schedules in ARs, so as to effectively manage the impact of future additions or changes to schedules, approved by the Commission, which will pass through that same AR review process.

Being in compliance with this requirement means that we will have an additional step that division staff will undertake following each Commission meeting: submission of new material or changes approved by the Commission through the AR process to ensure that existing schedules are updated and reflect the latest action by this body. To give you an example of how that will work, I will take us forward from today's meeting on June 21<sup>st</sup>. To catch the next cycle of Administrative Regulation review, we will need to submit our material to the LRC by July 13th (normally, it would be by the 15<sup>th</sup> of the month, but as the 15th occurs on a weekend, we target the last business date before the weekend). The draft administrative regulation will then be published in the Administrative Register of Kentucky, which contains regulations proposed by the state's administrative agencies and serves as public notice of those proposed regulations. That will appear on August 1<sup>st</sup>. The department will then schedule a public hearing and public

comment period, between August 21<sup>st</sup> and August 31, to receive any written or oral comments on the proposed regulations. The department will be expected to receive public comments on the proposed regulations for thirty days following the publication of the regulation in the Administrative Register; in other words, during all of the month of August. If the agency receives comments, it is to prepare a Statement of Consideration and file it with the Regulations Compiler at the LRC by the 15<sup>th</sup> of the following month. If it receives no comments, it is to advise the Compiler by letter and phone by the last day of the comment period. If the regulation is amended as a result of the hearing or due to comments received, the amended language and Statement of Consideration are filed with the Compiler and published in the Administrative Register for the next month. The regulation is then referred to the Administrative Regulation Review Subcommittee and if approved, subsequently to the appropriate jurisdictional legislative committee, which in our case would be the Education Committee. If it clears all of these hurdles and is able to be heard in a timely way, a regulation submitted in this next cycle would become effective in early November. Likewise, all schedules incorporated by reference in regulations submitted in this next cycle would also become effective on that date, once they had satisfied all the requirements of the review cycle, and would have the force of law.

With this in mind, I would like to recommend at this time to the Commission that it adopt the following motion:

As part of its regular process of review and approval of records retention schedules from state and local government agencies, this Commission will forward all existing state and local government schedules and all additions or changes to or deletions of records from schedules through the Administrative Regulation review process. When Administrative Regulations covering scheduled material become effective, the related schedules will also become effective.

In response to a question by Bensenhaver, Belding said that division staff was not sure how this development would affect staffing levels. The schedules can be submitted in electronic format, affecting the initial workload, which would still be substantial. The workload should decrease in the future, as the process becomes more routine.

In response to a question by Robb, Mosely said that the position of the Education Cabinet would be that schedules as currently constituted, and not incorporated by reference in to an administrative regulation, are still in full force and effect through a voluntary compliance agreement between KDLA and other public agencies.

Ms. Hamilton made the above motion, seconded by Ms. Dennis. The vote by members and representatives present was unanimous.

## **NEW OR REVISED RECORDS RETENTION SCHEDULES**

### **Cabinet for Health and Family Services - Department for Community Based Services - Division of Child Support**

Brookman was the Records Analyst working on this schedule revision. **This is a complete revision of the Retention Schedule for the Division of Child Support. Additions to the Schedule:** Series 05543, Child Support State Plan. **Deletions from the Schedule:** Series 1753.02, Cross Reference File Cards – Active; Series 1753.03, Cooperative Agreements – Active; Series 1753.04, Child Support Payments – Active; Series 1753.06, Cross Reference File Cards – Inactive; Series 1753.07, Location Requests Other States and Federal Agencies; Series 1753.09, Cooperative Agreements – Inactive; Series 1753.10, Child Support Payments – Inactive; Series 03179, Child Support Collection File – Closed; Series 03180, Child Support Collection File – Suspended; Series 03494, Absent Parent Collection File – Suspended; Series 03495, Absent Parent Collection File – Closed; Series 03496, Noncourt Collection File – Suspended; and Series 03497, Noncourt Collection File – Closed. **Changes to the Schedule:** The following series are assigned new series numbers to replace outdated ones: Series 1753.01, Absent Parent Case Records – Active, to Series 05639; Series 1753.05, Absent Parent Case Records – Inactive, to Series 05640; Series 1753.08, Location Requests To or From Other Entities File, to Series 05641; Series 1753.11, Negotiable Document, to Series 05642; Series 1683, Request for Confidential Information, to Series 05643; and Series 147, Microfilm, to Series 05644.

The Department for Community Based Services utilizes a network of contract officials to deliver services, such as child support and child care. The provision of services is enhanced through a close relationship and coordination with local community partners. The Division of Child Support provides assistance to parents with minor children seeking financial support from a noncustodial parent.

Brookman summarized the schedule revision.

Ms. Smith made a motion to adopt the schedule revision, seconded by Ms. Hamilton. The vote by the members and representatives present was unanimous.

### **Justice and Public Safety Cabinet – Department of Corrections – Division of Adult Institutions**

Brookman was the Records Analyst working on these additions and deletions. **Additions to the Schedule:** Series 05576, American Correctional Association Accreditation File; and Series 05577, Daily Activity Logs. **Deletions from Schedule:** Series 03014, Telephone Log; and Series 03017, Menu.

The Department of Corrections is responsible for managing the daily operations of the state correctional institutions and a variety of community-based services. It operates twelve adult correctional institutions and oversees three private prisons. It also oversees jail standards, training of jailers and jail personnel, and jail planning and construction, and may contract with a

county fiscal court or local or regional correctional authority to house misdemeanants and persons awaiting trial or sentencing. The accreditation program is a professional peer review process based on 533 national standards that have evolved since the founding of The American Correctional Association (ACA) in 1870. The standards address all areas of prison operation and programs and require constant monitoring and quality control checks. Each prison is audited by ACA every three years and has an inter-departmental audit (Program Security Review) every year. Kentucky has been involved with ACA since the early 1980s.

Brookman summarized the schedule additions and deletions.

Ms. Hamilton made a motion to adopt the schedule additions and deletions, seconded by Ms. McAninch. The vote by the members and representatives present was unanimous.

### **Lexington/Fayette Urban-County Government**

Carlton was the Analyst working on these changes and additions. **Additions to the Schedule:** *Mayor:* Series L5871, Legislative Preparation Work Papers; *Human Resources:* Series L5872, Employee Grievance File; *Building Inspection:* Series L5873, Encroachment Permit File; *Code Enforcement:* *Common Records:* Series L5876, Nonbusiness Related Correspondence. **Changes to the Schedule:** *Code Enforcement:* Series L5506, Violation File – Zoning, Building & Housing from Indefinite, Destroy when violation is corrected or litigation completed, to Indefinite, Destroy 5 years after last complaint. *Fire and Emergency Services:* Series L5535, Training Records File from Indefinite, Destroy 2 years after termination, to Indefinite, Destroy 5 years after termination.

Lexington/Fayette Urban County Government (LFUCG) was formed by the merger of the City of Lexington and Fayette County. The merged government, officially chartered January 1, 1974, after a referendum, was approved by the citizens of both governments. A government - wide records retention schedule was approved by the Archives and Records Commission on September 9, 2004.

Carlton summarized the schedule additions and changes. A proposed change to Series L5874, Home Inspector Files, which had been put before the Archives and Records Management Advisory Committee, was being dropped from commission members' consideration.

Mr. Johnson made a motion to adopt the schedule additions and changes, seconded by Mr. Haynes. The vote by the members and representatives present was unanimous.

### **Local Government General Records Retention Schedule – Public Safety – Law Enforcement**

Carlton was the Analyst working on this change. **Change to the Schedule:** Series L4720, Personnel Training Record File, from Indefinite, Destroy 70 years from date first employed, to Indefinite, Destroy 5 years after termination of employment.

The Local Government General Records Retention Schedule may be used by all local public agencies in the Commonwealth. Examples are county governments, municipal governments, merged governments, schools, and all agencies within local governments. The issuance of this retention schedule in 1999 was prompted by a need to assemble those records that every local government agency may create or receive in the course of business.

Carlton summarized the schedule change.

Mr. Haynes made a motion to adopt the schedule change, seconded by Ms. Dennis. The vote by the members and representatives present was unanimous.

### **Finance and Education Cabinet – Office of Administrative Services – Division of Occupations and Professions**

Getman was the Records Analyst working on these additions. **Twelve regulatory boards are being scheduled for the first time. There are currently six boards on the Occupations and Professions schedule. Additions to the Schedule:** *Massage Therapy*: Series 05547, Master Folder - Licensed Massage Therapist; Series 05548, Biennial Renewal Form; Series 05549, Continuing Education Provider Application; Series 05550, Master Folder, Approved Programs of Instruction; Series 05551, Licensing Incomplete Files; and Series 05552, Master Complaint Folder; *Occupational Therapy*: Series 05553, Master License Folder, Occupational Therapist; Series 05554, Master License Folder, Occupational Therapy Asst.; Series 05555, DPAM Specialty Certification Application; Series 05556, Annual Renewal; Series 05557, Approval for Continuing Education Providers; and Series 05558, Master Complaint Folder; *Veterinary Examiners*: Series 05559, Master Folder, Veterinarian; Series 05560, Master Folder, Veterinary Technician; Series 05561, Master Folder, Animal Control Agency; Series 05562, Master Folder, Euthanasia Specialist; Series 05563, Annual Renewal Form; Series 05564, Test Scores – NAVLE, VTNE; Series 05565, Continuing Education Provider Application ; Series 05566, Master Complaint Folder; and Series 05567, Denied Application Forms; *Alcohol and Drug Counselors*: Series 05568, Master Folder, Certified Alcohol and Drug Counselor; Series 05569, Renewal Application; Series 05570, Continuing Education Approval for CE Providers; Series 05571, Master Complaint Folder; and Series 05572, ICRC Score Report/Roster; *Dietitians and Nutritionists*: Series 05578, Master License Folder, Licensed Dietitian; Series 05579, Master License Folder, Certified Nutritionist; Series 05580, Denied Applications; Series 05581, Annual Renewals; Series 05582, Continuing Education Provider Approval; and Series 05583, Master Complaint Folder; *Interpreters Deaf/Hard of Hearing*: Series 05584, Master License Folder, Licensed Interpreter; Series 05585, Master License Folder, Temporary Interpreter; Series 05586, Annual Renewal; Series 05587, Request for Extension of Temporary License; Series 05588, Continuing Education Approval for Providers; and Series 05589, Master Complaint Folder; *Marriage and Family Therapists*: Series 05590, Master Folder, Marriage & Family Therapist; Series 05591, Master Folder, Marriage & Family Therapist, Assoc.; Series 05592, Annual Renewal; Series 05593, Continuing Education Approval for Providers; and Series 05594, Master Complaint Folder; *Ophthalmic Dispensers*: Series 05595, Master Folder, Ophthalmic Dispenser; Series 05596, Master Folder, Apprentice Ophthalmic Dispenser; Series 05597, Denied Application; Series 05598, Annual Renewal; Series 05599, Continuing Education Approval; Series 05600, Master Complaint Folder; and Series 05601, State Practical Exam Roster; *Private*

*Investigators:* Series 05602, Master Folder, Private Investigator - Individual; Series 05603, Master Folder, Private Investigator - Company; Series 05604, Denied Applications; Series 05605, Biennial Renewal; Series 05606, Continuing Education Approval for Providers; Series 05607, Master Complaint Folder; and Series 05608, Examination Roster; *Art Therapists:* Series 05609, Master Folder, Certified Professional Art Therapist; Series 05610, Biennial Renewal; and Series 05611, Master Complaint Folder; Series 05612, Denied Applications; *Professional Counselors:* Series 05613, Master Folder, Professional Clinical Counselor; Series 05614, Master Folder, Professional Counselor Associate; Series 05615, Annual Renewal; Series 05616, Continuing Education Approval for Providers; and Series 05617, Master Complaint Folder; *Geologists:* Series 05618, Master Folder, Registered Geologist; Series 05619, Master Folder, Certified Geologist-In-Training; Series 05620, Annual Renewal; Series 05621, Master Complaint Folder; Series 05622, Denied Application; and Series 05623, ASBOG Test Scores.

The Kentucky Division of Occupations and Professions provides administrative and fiscal management, technical support and advice to twenty regulatory boards in the complex system of occupational licensing. Consumers, professionals and employers are able to obtain vital information from the records of more than 40,000 licensees in the twenty professions affiliated with the Division. The most important function of professional regulation is to protect the public. This information helps inform people about the licensed professionals who offer services in the state of Kentucky. The boards under Occupations and Professions are as follows: Alcohol and Drug Counselors; Dieticians and Nutritionists; Fee-based Pastoral Counselors; Interpreters for the Deaf and Hard of Hearing; Marriage and Family Therapists; Massage Therapy; Nursing Home Administrators; Occupational Therapy; Ophthalmic Dispensers; Private Investigators; Professional Art Therapists; Professional Counselors; Professional Geologists; Proprietary Education; Psychologists; Registered Athlete Agents; Social Work; Specialists in Hearing Instruments; Speech-Language Pathology and Audiology; and Veterinarians.

Getman summarized the additions. The Advisory Committee had recommended approval contingent upon a reduction in the recommended retention on all of the master folder series and the master complaint series from 75 years after termination to 50 years after termination, and after allowing for the supporting documentation contained in the various series documenting approval of continuing education providers to be retained one year in all cases, while retaining documentation of the approval for the balance of the appropriate retention period.

Mr. Haynes made a motion to adopt the schedule change, seconded by Ms. McAninch. The vote by the members and representatives present was unanimous.

### **Public School District – Administration**

Carlton was the Analyst working on this addition. **Additions to the Schedule:** Series L5875, Nonbusiness Related Correspondence

The first attempt to assemble a school district – wide records retention schedule was made in 1988. The Archives and Records Commission approved this schedule that year. In 1999 a complete revision of the schedule was approved by the Commission. This schedule included K through 12 and the school district central office in one schedule. In March of 2003 the

Commission once again approved a revision of the entire schedule. The 176 school districts in the Commonwealth produce an overwhelming amount of paper records. We continue to work with school districts providing records management training and direct service.

Carlton summarized the addition. The Advisory Committee recommended that the disposition of this series should be changed from “Destroy all nonbusiness related records and delete all nonbusiness related e-mail **as soon as possible**” to “Destroy all nonbusiness related records and delete all nonbusiness related e-mail **immediately**.”

Cundy said that that the phrase “as soon as possible” would be changed to “immediately” for all records series pertaining to nonbusiness related correspondence on the General Schedule for State Agencies and the as proposed for the University Model Schedule.

Ms. Hamilton made a motion to adopt the schedule addition, seconded by Ms. McAninch. The vote by the members and representatives present was unanimous.

### **Transportation Cabinet – Department of Vehicle Regulation – Division of Driver Licensing**

Getman was the Records Analyst working on these additions and revisions. **Additions to the Schedule:** Series 05634, Civil Judgments – In State; and Series 05635, Civil Judgments – Out of State. **Revisions to the Schedule:** Change Series 2, Driving History Records, to Series 05633. This does not represent a change in retention or disposition. Rather it is an update to the description and analysis and an assignment of a new series number. The two series added above were extracted from the previous Driving History Record as they have a longer retention.

The Department of Vehicle Regulation was established by the 1974 General Assembly, with the enactment of Senate Bill 112 (KRS 174.015). The Department is headed by a commissioner, who reports to the Deputy Secretary for Legal Affairs of the Cabinet. It performs all activities relating to the licensing of motor vehicles and drivers in the Commonwealth. Authority is provided in KRS Chapters 138, 186, 186A, 189, 190 and 281. The Division of Driver Licensing administers KRS 186.400 - 649, relating to licensing and maintenance of driver history, and records for motor vehicle operators. Specific areas of responsibility include: Driver History Records, State Traffic School Enrollment, Driver Testing Manuals, License Issuance Locations, Driver License/ID Card and General Information, Motor Cycle/Moped Licenses, Forms and Applications, Point System, Driving Under the Influence (DUI), Kentucky Driving Laws, and Ignition Interlock Devices. The unit also supervises the state’s driver improvement program for new drivers and traffic offenders.

Getman summarized the additions and revision.

Mr. Haynes made a motion to adopt the schedule revision and additions, seconded by Mr. Lykins. The vote by the members and representatives present was unanimous.

## **State University Model**

Cundy was the Records Analyst working on these additions. **This is part of a continuing effort to update the State University Model Records Retention Schedule. Additions to the Schedule:** Series 05632, Diagnostic Files; and Series U0122, Non-business Related Correspondence. Series 05632, Diagnostic Files, represent files maintained by plant diagnostic laboratories, specifically those at the University of Kentucky. The University of Kentucky operates two Plant Disease Diagnostic Laboratories, one on the Lexington Campus and another at the UK Research and Extension Center in Princeton, KY. The UK Plant Disease Diagnostic Laboratories are used primarily as an educational resource for UK Extension Agents in Agriculture and Horticulture located in county Extension offices throughout the Commonwealth. Series U0122, Non-business Related Correspondence, is part of an effort to address management of digital records, in this case those that arise from the use of e-mail. Use of e-mail makes the presence of correspondence that is not directly related to university business unavoidable. This series addresses that issue.

Cundy summarized the schedule additions.

Ms. Hamilton made a motion to adopt the schedule change, seconded by Mr. Johnson. The vote by the members and representatives present was unanimous.

## **Local Records Grants Review**

Onkst recognized Carlton, who commended his staff, Regional Administrators Larry Barnett, Trace Kirkwood, Tim McIntosh and Lena Jones Turner; and Grants and Contracts Specialist Sunnye Smith, for their work. This cycle, Local Records Branch staff recommended the funding of projects totaling \$272,859.00, most of which would go toward electronic projects, especially backfile conversion to digital images. Digital imaging projects will become more prevalent given that more and more County Clerks are installing digital imaging systems in their offices. In spite of that, security microfilming would still be the top priority of the grants program.

Mr. Johnson made a recommendation that the slate of grants be approved by Commissioner Onkst, seconded by Ms. Dennis. The vote by the members and representatives present was unanimous.

## **Other Business**

Onkst recognized Cundy who updated commission members regarding e-mail management training that Cundy and Myers had been conducting. As of the meeting date, they had presented to over 550 state employees representing approximately 135 state agencies, division level or above. The attendees have included a Deputy Cabinet Secretary, a large number of supervisory personnel, attorneys, information technology staff, Records Officers and Public Information Officers. Response has been enthusiastic in that attendees have indicated that there are other individuals at agencies who should attend the workshop and that they desire to hear more and more varied training. PRD staff has augmented e-mail management training with more material on the department's website and is developing an online training module. Even though the

change to Series M0002, General Correspondence, will not be taking effect on July 1<sup>st</sup>, the training is still beneficial because state employees still need to manage the e-mail they send and receive.

In response to a comment by Dennis, Belding said that PRD staff had made efforts toward facilitating a consistent approach to individual employee management of records by asking about the possibility of including in the online employee handbook related to records management procedures that all employees would be expected to follow. Myers said that staff is drafting a model e-mail policy that agencies can adapt to their own business practices and adopt.

Onkst said that he had appeared before the Capital Planning Advisory Board in May to discuss the department's request for an addition to its current archival facility. Board members raised several questions and department staff prepared information related to the amount of hard copy materials to be stored permanently and the amount to be digitized. The Education Cabinet will be appearing before the Board on July 20<sup>th</sup>.

Onkst recognized Belding who said that he had distributed to commission members a report from the National Association of Chief Information Officers (CIO's). This report is the first in a series of reports entitled "Electronic Records Management and Digital Preservation: Protecting the Knowledge Assets of the State Government Enterprise." This report is an encouraging expression of the need for the states' information technology offices to partner with their records management offices to collaborate on work toward an enterprise-wide approach to electronic records management and digital preservation, and to pay attention to these issues at the time that capital projects are being considered that have an impact on the creation in digital formats of information that has long-term value. This report is a result of efforts by a joint committee comprised of CIO's, archivists and records managers, all from varied backgrounds. The mutual interests among Kentucky's information technology and records management agencies are represented by the Electronic Records Working Group.

Belding announced that he would be retiring at the end of August. He expressed his thanks for the work of the commission members.

Mr. Birdwhistell made a motion that the KDLA staff prepare a resolution in recognition of Richard Belding for his service, and expressing commission members' appreciation for his work, seconded by Ms. McAninch. The vote by members and representatives present was unanimous.

There being no further business, Onkst adjourned the meeting at approximately 11:15.